IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B. Cr. Revision Petition No.880/2002
(Ramesh Versus The State of Rajasthan)

Date of Order :: 29th May, 2014

PRESENT

HON'BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Mr. Shyam Bihari Gautam, counsel for the petitioner
Mr. Virendra Godara, PP for the State

This revision has been filed by the petitioner against the judgment dated 9.1.2002 passed by Special Judge (Communal Riots/Mansingh Murder Cases), Jaipur in Cr. Appeal No. 107/2001, whereby the appeal filed by the petitioner has been dismissed and the judgment dated 28.1.1997 passed by Addl. Chief Judicial Magistrate No.3, Jaipur City, Jaipur in Cr. Case No. 514/1989, convicting and sentencing the petitioner for the offence under Sections 279 and 304A IPC as under, has been affirmed:

Under Section 279 IPC: To undergo 1 month's SI together with fine of Rs. 200/-; in default of payment of fine, to further undergo 15 days' SI

Under Section 304A IPC: To undergo 3 months' SI with fine of Rs. 500/-; in default of payment of fine, to further undergo 1 month's SI

Brief facts of the case are as under:-

“On 8.2.1989, complainant Banshi Lal lodged a written report at Police Station, Bajaj Nagar, Jaipur. On the basis of the said report, an FIR came to be registered against the accused petitioner by

the police. After completion of investigation, the police submitted a challan against the accused petitioner. The trial court framed charges against the petitioner and the same were readover to him. The accused petitioner denied for the same and claimed for trial. Thereafter the prosecution has examined its witnesses. Thereafter the statement of accused petitioner were recorded under Section 313 CrPC. After hearing both the sides, the learned trial court passed the judgment dated 28.1.1997 convicting and sentencing the petitioner for the aforesaid offences, as indicated above. Against the said judgment dated 28.1.1997 passed by the trial court, the petitioner preferred an appeal before the appellate court, but the appellate court vide judgment dated 9.1.2002 dismissed the appeal and affirmed the judgment passed by the trial court."

Hence, this cr. revision petition has been filed by the petitioner before this Court.

Without going into the merits of the case, learned counsel for the petitioner has contended that he is not challenging the conviction part of the judgments of the courts below, but he is only requesting to this Court that looking to the fact the matter pertains to the year 1989 which is about 25 years ago from today approximately, the accused petitioner has remained in confinment for about 5 days; the petitioner belongs to a respectable family, having a large family dependent upon him; and he is

not the habitual offender; either he should be given the benefit of probation and if not, then he should be released for the period already undergone by him in confinement, as indicated here-in-above.

Learned PP appearing for the State has opposed the same.

I have heard learned counsel for the parties and carefully perused the relevant material on record.

Looking to the facts and circumstances of the case and keeping in mind the arguments of learned counsel for the parties, I do not think it proper to release the accused petitioner on probation, but in my view, ends of justice would be met if the sentence awarded to the petitioner is reduced to the period already undergone by him in confinement, as indicated here-in-above. Hence, this revision petition is disposed of with the following directions:

i) The conviction of the petitioner as awarded by the trial court and affirmed by the appellate court is maintained.
ii) The sentence of the petitioner is reduced to the period already undergone by him in confinement, as indicated above.
iii) The petitioner is on bail. He need not to surrender and his bail bonds stand cancelled.

Impugned judgments stand modified, as indicated hereinabove.

(Mahesh Chandra Sharma), J.

DK

All corrections made in the judgment / order have been incorporated in the judgment / order being E-mailed.

Dilip Khandelwal
PA